



# Transportation Benefit District Legislation in Effect

Through the cooperative efforts of the Association of Washington Cities (AWC) and the Washington State Associations of Counties (WSAC), significant legislation will go into effect on July 22, which results in the most important local transportation tool for cities and counties in sixteen years – Transportation Benefit Districts (TBDs). They are independent taxing districts that can impose an array of taxes or fees either through a vote of the people or through council action. TBDs are flexible: they allow cities and counties to work cooperatively on addressing both regional and local transportation challenges.

## Frequently Asked Questions

### Background

In 1987, the Legislature created Transportation Benefit Districts (“TBD”) as an option for local governments to fund transportation improvements. Since 2005, the Legislature has amended the TBD statute to expand its uses and revenue authority. Most recently, the Legislature amended the TBD statute to authorize the imposition of vehicle fees and transportation impact fees without a public vote. The purpose of these materials is to help you better understand TBDs.

### What is a Transportation Benefit District (TBD)?

A TBD is a quasi-municipal corporation and independent taxing district created for the sole purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the district.

### Who may create a TBD?

The legislative authority of a county or city may create a TBD by ordinance following the procedures set forth in Chapter 36.73. The county or city proposing to create the TBD may include other counties, cities, port districts, or transit districts through interlocal agreements.

However, King, Pierce, and Snohomish counties, and the cities within those counties cannot create a TBD until December, 1, 2007.

### Who governs the TBD?

The members of the legislative authority (county or city) proposing to establish the TBD is the governing body of the TBD. The legislative authority is acting ex officio and independently as the TBD governing body. If a TBD includes additional jurisdictions through interlocal agreements, then the governing body must have at least five members, including at least one elected official from each of the participating jurisdictions.

### Why create a TBD if the county or city legislative authority is the governing board?

A TBD is a legal creature. Although a TBD has many of the powers of a county and city (impose taxes, eminent domain powers, can contract and accept gifts, etc.), - it is a separate taxing district, which is important for property tax purposes. Additionally, by being a separate legal and taxing creature, TBDs are flexible. For example, more than one type of jurisdiction can be part of a TBD and the boundaries can be less than countywide or citywide.

### Can a TBD be created without imposing fees or proposing voter approved revenue options?

No. The creation of a TBD must be through an ordinance. The ordinance must include a finding that the creation of a TBD is in the public’s interest, the boundaries of the TBD, a description of the transportation improvement or improvements proposed by the district, and the proposed taxes, fees, charges, etc. the TBD will impose to raise revenue to fund the identified improvement or improvements.

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**Are TBD revenues required to be spent as they are collected?**

No. The governing body must develop a plan that specifies the transportation improvements to be provided or funded by the TBD. As part of this plan, the TBD's governing board can indicate if the funds will be used immediately, or if they will be collected for a specified period. Typically, funds that are collected for a specified period before being expended are used to fully fund large projects, when bonding, or serve as a match for state or federal funds that may only become available in a specified time frame.

**What are the boundaries of a TBD?**

The boundaries of a TBD may be less than the boundaries of those jurisdictions participating in the TBD. For example, a county or city may choose to have the TBD boundaries identical with the county or city, or just include a portion of the county or city. However, if a TBD chooses to exercise the tax authority that does not require a public vote (e.g. vehicle and impact fees), the boundaries of the TBD must be countywide, citywide, or unincorporated countywide.

**What transportation improvements can be funded by a TBD?**

A TBD can fund any transportation improvement contained in any existing state or regional transportation plan that is necessitated by existing or reasonably foreseeable congestion levels. This can include maintenance and improvements to city streets, county roads, state highways, investments in high capacity transportation, public transportation, transportation demand management and other transportation projects identified in a regional transportation planning organization plan or state plan.

**Can a TBD fund maintenance and preservation activities?**

Yes. A TBD may fund the operation, maintenance, and preservation of the programs and facilities noted above. Additionally, maintenance and preservation activities are noted in many state and regional transportation plans. For

example, preservation of existing transportation facilities is the number one priority within the Washington State Transportation Plan. Eliminating the backlog of asphalt pavement projects and maintaining chip seal paving, along with many other maintenance and preservation activities, are specifically noted as priorities in that Plan.

However, keep in mind that any transportation improvement also needs to be "necessitated by existing or reasonably foreseeable congestion levels". Consequently, not every street, road, transit program, etc. will qualify as a transportation improvement.

**If the TBD transportation improvements must be in a state or regional plan, does that mean only state and regional roads such as arterials, can be funded?**

No. The TBD statute originally limited the use of funds for city streets and county roads to 40% of funds generated. That limitation was removed to make TBD an option for purely locally determined activities. For example, both the Washington State Transportation Plan, 2007-2026 State transportation plan ([www.wsdot.wa.gov/NR/rdonlyres/083D185B-7B1F-49F5-B865-C0A21D0DCE32/0/FinalWTP111406\\_nomaps.pdf](http://www.wsdot.wa.gov/NR/rdonlyres/083D185B-7B1F-49F5-B865-C0A21D0DCE32/0/FinalWTP111406_nomaps.pdf)) and the Puget Sound Regional Council's Destination 2030 Update at page 62 ([www.psrc.org/projects/mtp/pubs/D2030plan5.07.pdf](http://www.psrc.org/projects/mtp/pubs/D2030plan5.07.pdf)) note that adequate maintenance, preservation, and expansion of local roads are an important element of the "system" and that new local options should be put to this purpose.

**What if the transportation improvements are not currently in an existing state or regional plan?**

We suggest that you work with your Regional Transportation Planning Organization (RTPO) to incorporate your proposed improvements into the RTPO's plan. As noted above, most RTPO's and the state plan have already identified a broad range of local transportation improvements as priorities.

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### What revenue options do TBD's have?

TBD's have several revenue options subject to voter approval:

1. Property taxes – a 1-year excess levy or an excess levy for capital purposes;
2. Up to 0.2% sales and use tax;
3. Up to \$100 annual vehicle fee per vehicle registered in the district; and
4. Vehicle tolls.

Please Note: There are exemptions or unique requirements when using the vehicle fee or vehicle tolls.

TBD's have two revenue options not subject to voter approval, but subject to additional conditions:

1. Annual vehicle fee up to \$20. This fee is collected at the time of vehicle renewal and cannot be used to fund passenger only ferry-service improvements.
2. Transportation impact fees on commercial and industrial buildings. Residential buildings are excluded. In addition, a county or city must provide a credit for a commercial or industrial transportation impact if the respective county or city has already imposed a transportation impact fee.

Please Note: Foregoing a vote is an option only. A county or city still has the option of placing either the annual fee of up to \$20 or the impact fees to the vote of the people as an advisory vote or an actual requirement of imposition.

### What are the additional conditions required to impose revenue options not subject to voter approval?

To impose either fee, the TBD's boundaries must be countywide or citywide, or if applicable, in the unincorporated county.

**Vehicle Fees:** A county that creates a TBD to impose up to a \$20 vehicle fee must first attempt to impose a countywide fee to be shared with cities by interlocal agreement. Sixty percent (60%) of the cities representing seventy-five (75%) of the incorporated population must approve the interlocal agreement for it to be effective. If an interlocal agreement cannot be reached, the county is authorized to create a TBD and impose the fee only in the unincorporated area of the county.

In addition, credits must be provided for previously imposed TBD vehicle fees. Credits are not required for voter approved vehicle fees.

**Commercial and Industrial Transportation Impact Fees:** A TBD that is either countywide or citywide must provide a credit for a commercial or industrial transportation impact fee if the respective county or city has already imposed a transportation impact fee. This is commonly called a "no double-dipping" provision.

### What are the effective dates to impose revenue options not subject to voter approval?

All counties except King, Pierce and Snohomish	
July 22, 2007 to January 18, 2008	County only Note: A county may waive this exclusive authority and allow a city to proceed by adopting a resolution to that effect.
January 19, 2008	All 36 counties and cities within the 36 counties.

King, Pierce and Snohomish County Eligibility	
December 1, 2007 to May 22, 2008	County only Note: King, Pierce, or Snohomish County may waive this exclusive authority and allow a city to proceed by adopting a resolution to that effect.
May 23, 2008	All counties and cities

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**If we create a countywide TBD for the up to \$20 vehicle fee, how is the revenue distributed to cities?**

The revenue must be shared according to the interlocal agreement. The law does not prescribe what the interlocal agreement contains. Consequently, the revenue can be shared by population, number of vehicles within each jurisdiction, project list, a combination of these, or whatever the county and cities can reach agreement on.

**What happens if a city imposes the up to \$20 vehicle fee and then the county imposes a countywide fee without voter approval?**

The law requires TBDs to provide a credit for vehicle fees previously imposed by a TBD.

For example, if a City was the first to create a TBD to impose a \$20 vehicle fee and subsequently its County creates a countywide TBD imposing a \$20 vehicle fee, the County TBD must provide a \$20 credit against its fee for vehicles registered in the City. As a result, no fee would be collected by the County TBD from vehicles registered in the City. Additionally, the City would not be part of the interlocal agreement with the County or be included in the number/percentages needed for the interlocal agreement to be effective.

However, if in the same example, the City TBD imposed only \$10 of the \$20 vehicle fee and the County TBD imposed a countywide \$20 vehicle fee, only a \$10 credit would be provided for vehicles registered in the City. The County TBD would collect \$10 from vehicles registered in the City. Consequently, the County TBD would need to include the City in the interlocal agreement discussions and the City is included in the number/percentages needed for the interlocal agreement to be effective.

**What other requirements should I be aware of?**

Revenue rates, once imposed, may not be increased, unless authorized by voter approval.

If project costs exceed original costs by more than 20 percent, a public hearing must be held to solicit public comment regarding how the cost change should be resolved.

The TBD must issue an annual report to include the status of project costs, revenues, expenditures, and construction schedules.

The TBD must be dissolved upon completion of the project(s) and the payment of debt service.

**Checklist**

For a checklist that highlights many of the important considerations when creating a Transportation Benefit District (TBD), please see [www.awcnet.org/tbd](http://www.awcnet.org/tbd).

Eligibility requirements vary. For additional questions on Transportation Districts, please contact AWC staff Ashley Probart at [ashleyp@awcnet.org](mailto:ashleyp@awcnet.org) Sheri Sawyer at [sheris@awcnet.org](mailto:sheris@awcnet.org).